



**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Proposed Information Collection; Comment Request; Interim  
Procedures for Considering Requests and Comments from the Public  
Under the Commercial Availability Provision of the United States  
-Korea Free Trade Agreement**

**AGENCY:** International Trade Administration.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before [Insert date 60 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [JJessup@doc.gov](mailto:JJessup@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Maria D'Andrea, Office of Textiles and Apparel, U.S. Department of Commerce, Tel.(202) 482-4058, [maria\\_dandrea@ita.doc.gov](mailto:maria_dandrea@ita.doc.gov), Fax. (202) 482-0667.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The United States and Korea negotiated the US-Korea Free Trade Agreement (the "Agreement") which was implemented into U.S. law pursuant to the United States-Korea Free Trade Agreement Implementation Act ("the Act"). Under the provisions of the Act, textile and apparel goods must contain fibers, yarns, and fabrics produced in Korea or the United States to receive duty-free tariff treatment. The Agreement also provides for the establishment of a list of specific fibers, yarns, and fabrics that are not available in commercial quantities in a timely manner from producers in the United States. Articles containing these commercially unavailable fibers, yarns, and

fabrics are also entitled to duty-free or preferential duty treatment despite not being produced in the United States.

The list of commercially unavailable fabrics, yarns, and fibers may be changed pursuant to the commercial availability provision of the Agreement and the Act. Under Section 202(o) of the Act ("the commercial availability provision"), interested entities from Korea or the United States have the right to request that a specific fiber, yarn, or fabric be added to, or removed from, the list of commercially unavailable fibers, yarns, and fabrics. This right becomes effective when the Agreement enters into force.

Section 202(o)(3)(F) of the Act requires that the President establish procedures for parties to follow when exercising the right to make these requests. The President delegated the responsibility for publishing the procedures and administering commercial availability requests to the Committee for the Implementation of Textile Agreements (CITA), which issues procedures and acts on requests through the Office of Textiles and Apparel ("OTEXA").

The intent of these procedures is to foster the trade in U.S. and Korean textile and apparel articles by allowing non-originating fibers, yarns, and fabrics to be placed on or removed from a list of items not available in commercial quantities, on a timely basis, and in a manner that is

consistent with normal business practice. To this end, these procedures are intended to facilitate the transmission, on a timely basis, of requests for commercial availability determinations and offers to supply the products that are the subject of the requests; have the market indicate the availability of the supply of the subject products; make available promptly, to interested entities and parties, information received regarding the requests for products and offers to supply; ensure wide participation by interested entities and parties; provide careful scrutiny of information provided to substantiate order requests and responses of offers to supply; and provide timely public dissemination of information used by CITA in making commercial availability determinations.

For a fiber, yarn or fabric to be added to Appendix 4-B-1, an interested entity must submit to CITA a Request for a Commercial Availability Determination ("Request") which states that the subject product is not commercially available in the United States within a commercially reasonable timeframe (i.e., timely). In support of its claim, the requestor must provide information to CITA regarding its attempts to source the subject product in the United States, and why it determined that the product is not available in a timely manner. Potential suppliers from the United States may submit a Response with an

Offer to Supply ("Response"), asserting their capability and capacity to supply the subject product. These Responses must include information supporting the capability and capacity assertion. If the requestor disputes a responder's assertions, the requestor may submit a Rebuttal comment offering its contention, along with supporting information and documentation.

The information collected by CITA from Requests, Responses and Rebuttals will be used to determine whether the subject product is available in commercial quantities in a timely manner in the United States under the commercial availability provision of the Act. Requests, Responses, and Rebuttals must identify confidential information. Entities submitting confidential information in their Requests, Responses, or Rebuttals to CITA must submit both a public and a confidential version of their submissions. If the submissions are accepted, the public submissions or public versions of submissions will be posted on the dedicated commercial availability section of the OTEXA's website. Business confidential information will not be shared with the public. Requestors and potential suppliers of the product named in the Request may use the public version as a basis for Responses and Rebuttals.

Each submission containing factual information for CITA's consideration must be accompanied by the appropriate certification regarding the accuracy of the factual information.

With each electronic and original signed submission that contains factual information, an interested entity must file a certification of due diligence, attesting to the accuracy and authenticity of the submission. If the interested entity has legal counsel or other representative, the legal counsel or other representative must also file a certification of due diligence with each electronic and original signed submissions that contains factual information. Accurate representations of material facts submitted to CITA for the Commercial Availability Proceeding are vital to the integrity of this process and are necessary for CITA's effective administration of the statutory scheme. Each submission containing factual information for CITA's consideration must be accompanied by the appropriate certification regarding the accuracy of the factual information. Any submission that lacks the applicable certifications will be considered an incomplete submission that CITA will reject and return to the submitter. CITA may verify any factual information submitted by interested entities in a Commercial Availability Proceeding.

## **II. Method of Collection**

All submissions for a commercial availability proceeding pursuant to these procedures (e.g., Commercial Availability Request, Response, Rebuttal, and Request to Remove) must be in

English. If any attachments are in a language other than English, a complete translation must be provided. Each submission must be submitted to the Chairman of CITA, in care of the U.S. Department of Commerce's Office of Textiles and Apparel in two forms: email and an original signed submission. An email version of the submission must be either in PDF or Word format, must contain an adequate public summary of any business confidential information and the due diligence certification, and should be sent to [OTEXA.KOREA@trade.gov](mailto:OTEXA.KOREA@trade.gov). The email version of the submission will be posted for public review on KOREA FTA Commercial Availability website. No business confidential information should be submitted in the email version of any document.

Brackets must be placed around all business confidential information contained in submissions. Documents containing business confidential information must have a bolded heading stating "Confidential Version." Attachments considered business confidential information must have a heading stating "Business Confidential Information." Documents, including those submitted via email, provided for public release must have a bolded heading stating "Public Version" and all the business confidential information must be deleted from public versions, and substituted with an adequate public summary.

### **III. Data**

*OMB Control Number:* 0625-0270.

*Form Number(s):* None.

*Type of Review:* Regular submission (extension of a currently approved information collection).

*Affected Public:* Individuals or households; Business or other for-profit organizations).

*Estimated Number of Respondents:* 16.

*Estimated Time Per Response:* 8 hours for Request for Commercial Availability Determination; 2 hours for Response to a Request; and 1 hour for Rebuttal.

*Estimated Total Annual Burden Hours:* 89.

*Estimated Total Annual Cost to Public:* \$3,440.

### **IV. Request for Comments**

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the



use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 29, 2012

**Gwellnar Banks,**

Management Analyst, Office of the Chief Information Officer.

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